

PM

STAFF REPORT TO THE
CITY COUNCIL
FOR THE CITY OF TIGARD, OREGON



120 DAYS = N/A

SECTION I. APPLICATION SUMMARY

FILE NAME: OTIS ANNEXATION
CASE NO: Zone Change Annexation (ZCA) ZCA2013-00003

APPLICANT: Brian and Lorraine Otis OWNER: Brian and Lorraine Otis
14031 SW Alpine Crest Way 14031 SW Alpine Crest Way
Tigard, OR 97223 Tigard, OR 97223

PROPOSAL: A request to annex to the City of Tigard approximately 0.94 acres of property

LOCATION: 14031 SW Alpine Crest Way; Assessor map 2S109AB, Tax Lot 600

COUNTY ZONE: R-6 District (Residential 6 Units Per Acre). The purpose of the Washington County R-6 District is to implement the policies of the Comprehensive Plan for areas designated for residential development at no more than six (6) units per acre and no less than five (5) units per acre, except as specified by Section 300-2 or Section 303-6. The intent of the R-6 District is to provide the opportunity for more flexibility in development than is allowed in the R-5 District.

EQUIVALENT
CITY ZONE: R-7: Medium-Density Residential District. The City of Tigard R-7 zoning district is designed to accommodate attached single-family homes, detached single-family homes with or without accessory residential units, at a minimum lot size of 5,000 square feet, and duplexes, at a minimum lot size of 10,000 square feet, at densities of approximately 7 units an acre.

APPLICABLE
REVIEW
CRITERIA: The approval standards for annexations are described in Community Development Code Chapters 18.320 and 18.390, Comprehensive Plan Goal 1, Goal 11, and Goal 14; ORS Chapter 222; Metro Code Chapter 3.09.

SECTION II. STAFF RECOMMENDATION

Staff recommends that City Council find that the proposed annexation (ZCA2013-00003) meets all the approval criteria as identified in ORS Chapter 222, Metro Code Chapter 3.09, Community Development Code Chapters 18.320 and 18.390, and the following Comprehensive Plan Goals and Policies: Goal 1.1; Goals 11.1 and 11.3; and Goals 14.1 and 14.2. Therefore, staff recommends APPROVAL of ZCA2013-00001 by adoption of the attached ordinance.

SECTION III. BACKGROUND INFORMATION

Vicinity Information

The subject parcel is approximately 0.94 acres in size, and is one of five parcels that form an approximately 13.95 acre unincorporated island within the Bull Mountain neighborhood. The property is located at the NW corner of the intersection of Alpine Crest Way and Wilmington Lane. The site and surrounding vicinity are dominated by single family homes.

Site Information and Proposal Description

The site consists of a single parcel of land approximately 0.94 acres in size, as stated above. The subject parcel slopes downhill from a southwesterly to northeasterly direction, and contains an existing single family home in the approximate center of the property. The home was recently constructed and the applicant is proposing to annex in order to obtain access to city sanitary sewer service.

The subject parcel adjoins the City Boundary along the western, southern, and southeastern corners of the project site. The proposed annexation will help to rationalize the city boundary in this area by reducing the size of the unincorporated island.

A public election is not required for a voluntary annexation of a single parcel. However, a public hearing before the Tigard City Council is required. The purpose of the request is to obtain urban services from the City needed to urbanize the area and provide housing and employment opportunities as envisioned by Metro when the subject area was placed within the Urban Growth Boundary.

SECTION IV. APPLICABLE REVIEW CRITERIA, FINDINGS AND CONCLUSIONS

City: Community Development Code Chapters 18.320 and 18.390
Comprehensive Plan Goal 1, Goal 11 and Goal 14.
State: ORS Chapter 222
Regional: Metro Code Chapter 3.09

A. CITY OF TIGARD COMMUNITY DEVELOPMENT CODE (TITLE 18)

Staff has determined that the proposal is consistent with the relevant portions of the Community Development Code based on the following findings:

“Chapter 18.320.020.B: Approval Process and Standards.

Approval Criteria. The decision to approve, approve with modification, or deny an application to annex property to the City shall be based on the following criteria:

1. All services and facilities are available to the area and have sufficient capacity to provide service for the proposed annexation area;”

FINDINGS: The City of Tigard Comprehensive Plan’s Public Facilities and Services Chapter states that for the purposes of the Comprehensive Plan, public facilities and services refer to storm water management, water supply and distribution, wastewater management, community facilities, and private utilities. In addition the comprehensive Plan Glossary includes public safety, parks, and transportation. Each service is available and adequate to serve the property as discussed below.

Water – City of Tigard. The existing single-family home on the site presently receives potable water service from the Tigard Water District. Service is provided through a four inch water main located within Alpine Crest Way. Additional capacity is available from an eight inch water main located within Wilmington Lane. Upon annexation, City of Tigard will become the water provider. Sufficient capacity presently exists, and no change in capacity or demand will result from the annexation.

Sewer – Clean Water Services/City of Tigard. Clean Water Services (CWS) is the service provider of sewer service. Upon annexation, the City of Tigard will be the retail provider of sewer service prior to ultimate treatment by Clean Water Services. The City is capable of providing sewer service without significant reduction in the level of services provided to developed and underdeveloped properties in the City. This service is available at the property boundary from either of two eight inch public sanitary sewers located within Alpine Crest Way and Wilmington Way.

Drainage – Clean Water Services/City of Tigard. Clean Water Services is the current provider of stormwater service. Upon annexation, the City of Tigard will be the provider of stormwater service. service is available from public storm main lines within Alpine Crest Way and Wilmington Lane.

Streets – City of Tigard Engineering Division. The subject property fronts SW Alpine Crest Way and SW Wilmington lane which are presently within City Limits. These roads provide the only access to the subject property and the unincorporated island, and the annexation will not create an additional demand or capacity restraint on the road system.

Police – City of Tigard Police Department. The City of Tigard Police Department reviewed the subject proposal and commented that they have no objection to it. The Tigard Police Department has determined that it has adequate capacity to serve the most intense use allowed and that providing services will not significantly reduce the level of services available to developed and undeveloped land within the City of Tigard.

Fire – Tualatin Valley Fire and Rescue (TVF&R). The subject property is in Tualatin Valley Fire and Rescue's (TVF&R's) service area. The TVF&R District currently provides services to the entire Bull Mountain area, both inside and outside of the City of Tigard, so this annexation represents no change. The Fire District has personnel and equipment in the area that can respond to an emergency incident and implement such actions as may be necessary for fire and/or rescue operations to developed and undeveloped land within the City of Tigard.

Parks–City of Tigard. According to the Tigard Urban Services Agreement, the City is designated as the provider of parks within the Urban Services Area. Consistent with the Tigard Park System Master Plan, the city operates parks within the Bull Mountain Area and is in the process of developing new parkland within the Bull Mountain area, consistent with the 2009 Tigard Park System Master Plan. As a result adequate capacity exists.

CONCLUSION: Based upon this review, staff finds that all public services and facilities (as defined by the Comprehensive Plan) are available to the proposed annexation territory and have sufficient capacity to provide service if developed to the most intense use allowed and will not significantly reduce the level of services available to developed and undeveloped land in the City of Tigard. These criteria are met.

“2. The applicable Comprehensive Plan policies and implementing ordinance provisions have been satisfied.”

FINDINGS: The following Comprehensive Plan goals and policies apply to the proposed annexation: Goal 1.1 and Goal 14, Policy 1- 4. Staff has determined that the proposal has satisfied the applicable Comprehensive Plan policies based on the following findings:

“Goal 1.1: Citizen Involvement. The City shall provide citizens, affected agencies and other jurisdictions the opportunity to participate in all phases of the planning process.”

The City maintains an ongoing citizen involvement program. To assure citizens will be provided an opportunity to be involved in all phases of the planning process, the City provides notice for Type IV land-use applications. The City posted, mailed, and published notice of the public hearing as follows. The City posted the hearing notice at four public places on November 7, 2013: Tigard Library, Tigard City Hall, Tigard Permit Center, and at the project site. The City published notice of the hearing in The Tigard Times for two successive weeks (November 7, 2013 & November 14, 2013) prior to the November 26, 2013, public hearing. In addition, the City maintains a list of interested parties organized by geography. Notice was mailed to interested parties on November 7, 2013. This goal is met.

“Goal 11.1: Develop and maintain a stormwater system that protects development, water resources, and wildlife habitat.

Policy 4. The City shall require the property to be located within the city limits prior to receiving City stormwater services.”

The applicant is not requesting additional City stormwater services at this time. This policy is met.

“Goal 11.3: Develop and maintain a wastewater collection system that meets the existing and future needs of the community.

Policy 6. The City shall require the property to be located within the city limits prior to receiving City wastewater services.”

The applicant has requested annexation in order to access city wastewater services. This policy will be met.

“Goal: 14.2. Implement the Tigard Urban Services Agreement through all reasonable and necessary steps, including the appropriate annexation of unincorporated properties.

Policy 1. The City shall assign a Tigard zoning district designation to annexed property that most closely conforms to the existing Washington County zoning designation for that property.”

The applicable Tigard zoning district designations are addressed below in the findings for Section 18.320.020.C. This policy is met.

“Policy 2. The City shall ensure that capacity exists, or can be developed, to provide needed urban level services to an area when approving annexation.”

Capacity exists and is adequate as addressed above under findings pertaining to 18.320.020.B.1 above, consistent with this policy. This policy is met.

“Policy 3. The City shall approve proposed annexations based on findings that the request:
A. can be accommodated by the City’s public facilities and services; and”

The annexation can be accommodated by the City’s public facilities and services as addressed under findings pertaining to 18.320.020.B.1 above, consistent with this policy. This policy is met.

“B. is consistent with applicable state statute.”

As reviewed below, staff finds that the provisions of ORS 222 have been met, consistent with this policy. This policy is met.

“Policy 4. The City shall evaluate and may require that parcels adjacent to proposed annexations be included to: A) avoid creating unincorporated islands within the City; B) enable public services to be efficiently and effectively extended to the entire area; or C) implement a concept plan or sub-area master plan that has been approved by the Planning Commission or City Council.

The proposed annexation is located within the Bull Mountain area and will not create an unincorporated island within the city. It will in fact reduce the size of an existing island. Public services are available and can be efficiently extended as discussed above. No concept plans or sub-area master plans apply to the affected parcel. This policy is met.”

“Chapter 18.320.020.C

Assignment of comprehensive plan and zoning designations.

The comprehensive plan designation and the zoning designation placed on the property shall be the City’s zoning district which most closely implements the City’s or County’s comprehensive plan map designation. The assignment of these designations shall occur automatically and concurrently with the annexation. In the case of land which carries County designations, the City shall convert the County’s comprehensive plan map and zoning designations to the City designations which are the most similar.”

The Washington County Land Use Districts Map and online GIS Intermap system show the affected parcel as being within the R-6 Land Use District. This designation is common throughout the unincorporated Bull Mountain neighborhood. The purpose of the Washington County R-6 District is to implement the policies of the Comprehensive Plan for areas designated for residential development at no more than six (6) units per acre and no less than five (5) units per acre, except as specified by Section 300-2 or Section 303-6 of the Washington County Community Development Code. The intent of the R-6 District is to provide the opportunity for more flexibility in development than is allowed in the R-5 District.

The most similar City of Tigard Zoning District is the R-7 Zoning District, as set forth in TDC 18.320.1 (Conversion Table for County and City Plan and Zoning Districts). The City of Tigard R-7 zoning district is designed to accommodate attached single-family homes, detached single-family homes with or without

accessory residential units, at a minimum lot size of 5,000 square feet, and duplexes, at a minimum lot size of 10,000 square feet, at densities of approximately 7 units an acre.

This standard is met.

“Chapter 18.390.060: Type IV Procedure”

Annexations are processed by means of a Type IV procedure, as governed by Chapter 18.390 of the Community Development Code (Title 18) using standards of approval contained in 18.390.020.B, which were addressed in the previous section. Chapter 18.390 requires City Council to hold a hearing on an annexation. It also requires the City to provide notice at least 20 days prior to the hearing by mail and to publish notice at least 10 business days prior to the hearing; the City mailed notice on November 12, 2013, and published public notice in The Tigard Times for two successive weeks (November 7, 2013 & November 14, 2013) prior to the November 26, 2013 public hearing.

“Additionally, Chapter 18.390.060 sets forth five decision-making considerations for a Type IV decision:

1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197;”

The City’s Comprehensive Plan has been acknowledged by the Land Conservation and Development Commission to be in compliance with state planning goals. As reviewed above, the annexation proposal meets the existing Comprehensive Plan policies and is, therefore, in compliance with state planning goals. This standard is met.

“2. Any federal or state statutes or regulations found applicable;”

ORS 222:

State law (ORS 222.120(4)(b), ORS 222.125 and ORS 222.170(1)) allows for a city to annex contiguous territory when owners of land in the proposed annexation territory submit a petition to the legislative body of the city. In addition, ORS 222.111(2) allows for a city to act on its own motion to annex contiguous territory. A city is not required to hold an election for such an annexation if it follows the noticing procedures for a public hearing per ORS 222.120.

ORS 222.120 requires the city to hold a public hearing before its legislative body (City Council) and provide public notice to be published once each week for two successive weeks prior to the day of the hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places for two successive weeks prior to the hearing.

The owner of the subject parcel has signed a petition for annexation to the City. The subject parcel is contiguous to the City’s boundary. The City has acted on its own motion to annex half the right-of-way along the SW 133rd frontage of the subject property.

The City mailed notice on November 12, 2013, and published public notice in The Tigard Tualatin Sherwood Times for two successive weeks (November 7, 2013 & November 14, 2013) prior to the November 26, 2013 public hearing and posted the hearing notice for public view on November 12, 2013 in the Tigard Library, Tigard City Hall, Tigard Permit Center, and in two places on the subject property. Staff finds that the provisions of ORS 222 have been met.

CONCLUSION: As shown in the above findings the proposed Otis Annexation satisfies the applicable Comprehensive Plan Policies and implementing ordinance provisions related to Local Government Boundary Changes.

“3. Any applicable METRO regulations;”

Chapter 3.09 of the Metro Code (Local Government Boundary Changes) includes standards to be addressed in annexation decisions, in addition to local and state review standards. Staff has determined that the applicable METRO regulations have been met based on the following findings:

“Metro 3.09.045 (d) and (e)”

The proposed annexation is not being reviewed through an expedited process, but subsections (d) of Metro Code 3.09.050 requires that the standards of 3.09.045 (d) & (e) be addressed.

“(d) To approve a boundary change through an expedited process, the city shall:

(1) Find that the change is consistent with expressly applicable provisions in:

(A) Any applicable urban service agreement adopted pursuant to ORS 195.065;”

The Urban Planning Area Agreement (UPAA) between the City and the County provides coordination of comprehensive planning and development, defines the area of interest, and includes policies with respect to the active planning area and annexation. The applicable annexation policies include the assignment of comprehensive plan and zoning designations addressed earlier in this report and acknowledgements that the City is the ultimate service provider of urban services within the Tigard Urban Service Area.

The Tigard Urban Service Agreement is between the City, County, Metro, and the service Districts for water, sewer, transportation, parks and public safety. The agreement outlines the role, provision, area, and planning/coordination responsibilities for service providers operating in the Tigard Urban Services Area (TUSA). These services are addressed above at the beginning of this report.

As addressed previously in this report, the annexation proposal complies with all applicable provisions of urban service provider agreements, UPAA (2006) and TUSA (2006).

“(B) Any applicable annexation plan adopted pursuant to ORS 195.205;”

These statutes outline the process for annexations initiated by a city or district, including public hearings and voting procedures. This statute is not applicable since this annexation was initiated by the property owners. The applicant and property owner have submitted a petition to annex.

“(C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;”

The UPAA (2006) includes the proposed annexation territory. The City has followed all processing and notice requirements in the UPAA, providing Washington County with notice prior to the public hearing. The agreement states that “so that all properties within the Tigard Urban Service Area will be served by the City, the County and City will be supportive of annexations to the City.” The annexation proposal is consistent with this agreement.

“(D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and”

The City of Tigard Public Facility Plan was adopted in 1991 in compliance with statewide planning goals and Oregon Administrative Rule 660-11. A revised plan is currently being developed as part of periodic review. The development of the community plan and its public facility elements will be coordinated consistent with the new facility plan being prepared through periodic review and with CWS and TVF& R facility plans as required by Statewide Planning Goal 14, Urbanization. New Comprehensive Plan goals and policies for public facilities were adopted in 2008 (Goal 11), and the applicable goals and policies were addressed previously in this report. The proposed annexation is consistent with the Tigard Public Facility Plan.

“(E) Any applicable comprehensive plan; and”

The Tigard Comprehensive Plan applies in this case. Applicable policies are satisfied as addressed previously in this report.

“(2) Consider whether the boundary change would: (A) Promote the timely, orderly and economic provision of public facilities and services; (B) Affect the quality and quantity of urban services; and (C) Eliminate or avoid unnecessary duplication of facilities or services.”

The proposed annexation will proceed consistent with the TUSA (2006), which ensures the timely, orderly, and efficient extension of public facilities and urban services; and as stated above are available to serve the proposed annexation territory without affecting the quality or quantity of those services.

“(e) A city may not annex territory that lies outside the UGB, except it may annex a lot or parcel that lies partially within and outside the UGB. Neither a city nor a district may extend water or sewer services from inside a UGB to territory that lies outside the UGB.”

The property to be annexed is not outside the UGB. This criterion is met.

“Metro 3.09.050 (b)

(b) Not later than 15 days prior to the date set for a change decision, the approving entity shall make available to the public a report that addresses the criteria in subsection (d) below, and that includes at a minimum the following:

(1) The extent to which urban services presently are available to serve the affected territory including any extra territorial extensions of service;”

As addressed previously in this report, urban services can be made available to the affected property. This standard is met.

“(2) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and”

The proposed territory will be withdrawn from the Washington County Enhanced Sheriff's Patrol District & Urban Road Maintenance District. This standard is met.

“(3) The proposed effective date of the boundary change.”

The public hearing will take place November 26, 2013. If the Council adopts findings to approve ZCA2013-00003, the effective date of the annexation will be December 26, 2013.

“(c) The person or entity proposing the boundary change has the burden to demonstrate that the proposed boundary change meets the applicable criteria.”

The applicant has provided application materials that addresses the applicable criteria. This standard is met.

“(d) To approve a boundary change, the reviewing entity shall apply the criteria and consider the factors set forth in subsections (d) and (e) of Section 3.09.045.”

The criteria and factors outlined in subsections (d) and (e) of Section 3.09.045 have been previously addressed in this report.

CONCLUSION: As shown in the above findings the proposed Otis Annexation satisfies the Metro Code regulations related to Local Government Boundary Changes.

“(Tigard CDC 18.390.060)

4. Any applicable comprehensive plan policies; and”

FINDINGS: Findings addressing the applicable Comprehensive Plan policies were provided previously in this report.

CONCLUSION: As previously demonstrated, the proposed annexation is consistent with all applicable comprehensive plan policies.

“5. Any applicable provisions of the City’s implementing ordinances.”

FINDINGS: Resolution 13-08 extended previously approved incentives for property owners that voluntarily annex into the city limits through February 2014. These incentives include waiver of the annexation application fee, assistance with paperwork and, phasing in of increased property taxes. These incentives have been extended to the applicant. To ensure property tax increases are properly phased, the phasing language is included in the proposed ordinance. As demonstrated in previous sections of this report, the proposed annexation is consistent with all other applicable provisions of the Tigard Development Code.

CONCLUSION: Based upon previous and above findings, all applicable provisions of the city's implementing ordinances are satisfied.

SECTION VII. OTHER STAFF COMMENTS

The City of Tigard Police Department reviewed the proposal and had no objections.

The city's Public Works Department, Building Division, Public Works Development Services Division, City Engineer, and Parks Manager were sent a request for comments. No comments were received.

SECTION VIII. AGENCY COMMENTS

The following agencies and jurisdictions were sent a request for comments but provided no formal written comments: Tualatin Valley Fire and Rescue, Clean Water Services, Metro – Land Use & Planning, Tri-Met, Washington County – Department of Land Use & Transportation, Washington County Assessment & Taxation, Washington County Cartography, Tigard-Tualatin School District, Northwest Natural Gas, Metro Area Communications, Comcast Cable Corporation, Portland General Electric, and Verizon.

| | |
|---|----------------------------------|
| <u>PREPARED BY:</u> John Floyd Associate Planner | <u>November 13, 2013</u> DATE |
|---|----------------------------------|

| | |
|---|----------------------------------|
| <u>REVIEWED BY:</u> Tom McGuire Assistant Community Development Director | <u>November 13, 2013</u> DATE |
|---|----------------------------------|